

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
MANUEL BARRERA and MELVIN ALMENDARES,
On behalf of themselves, individually, and on behalf
of all other similarly-situated,

Plaintiff,

-against-

ANSWER

Civil Action No. 18-cv-04558 (JMA) (GRB)

PEPE ROSSO 24 INC. d/b/a PEPE ROSSO, and
ROSSO UPTOWN, LTD. d/b/a ROSSO UPTOWN
PIZZERIA & RESTAURANT and/or BRICK
OSTERIA, and MICHAEL TIZZANO, an individual,
and MASSIMO GAMMELLA, an individual,

Defendants.

-----X

Defendants, PEPE ROSSO 24 INC. d/b/a PEPE ROSSO, and ROSSO UPTOWN, LTD. d/b/a
ROSSO UPTOWN PIZZERIA & RESTAURANT and/or BRICK OSTERIA, and MICHAEL TIZZANO,
an individual, and MASSIMO GAMMELLA, an individual, hereby answer Plaintiff's Amended
Complaint as follows:

DEFENDANTS' ORIGINAL ANSWER

Pursuant to Federal Rules of Civil Procedure 8(b), Defendants respond to the allegations in each
corresponding paragraph of the Amended Complaint as follows:

**I.
NATURE OF THE CASE**

Paragraph 1

The allegations of Paragraph 1 of the Amended Complaint are statements of either law or fact for
which an answer is not necessary, but to the extent that such allegations require an answer, they are
denied.

Paragraph 2

Defendants deny the allegations contained in Paragraph 2 of the Amended Complaint.

Paragraph 3

Defendants deny the allegations contained in Paragraph 3 of the Amended Complaint.

Paragraph 4

Defendants deny the allegations contained in Paragraph 4 of the Amended Complaint.

Paragraph 5

The allegations of Paragraph 5 of the Amended Complaint are statements of either law or fact for which an answer is not necessary, but to the extent that such allegations require an answer, they are denied.

Paragraph 6

Defendants deny the allegations contained in Paragraph 6 of the Amended Complaint.

**II.
JURISDICTION AND VENUE**

Paragraph 7

The allegations of Paragraph 7 of the Amended Complaint are statements of either law or fact for which an answer is not necessary, but to the extent that such allegations require an answer, they are denied.

Paragraph 8

The allegations of Paragraph 8 of the Amended Complaint are statements of either law or fact for which an answer is not necessary, but to the extent that such allegations require an answer, they are denied.

**III.
PARTIES**

Paragraph 9

Defendants admit only to the extent that Plaintiff acknowledges having employed Plaintiff, Barrera, otherwise the allegations contained in Paragraph 9 of the Amended Complaint are denied.

Paragraph 10

Defendants admit only to the extent that Plaintiff acknowledges having employed Plaintiff, Almendares, otherwise the allegations contained in Paragraph 10 of the Amended Complaint are denied.

Paragraph 11

Defendants admit the allegations contained in Paragraph 11 of the Amended Complaint.

Paragraph 12

Defendants admit the allegations contained in Paragraph 12 of the Amended Complaint to the extent that Defendant, Rosso Uptown, was doing business at that location, however, it has closed its operation since.

Paragraph 13

Defendants admit only so much of Paragraph 13 of the Amended Complaint that alleges that Tizzano was a joint owner and manager of Rosso Uptown for the relevant period. Otherwise, the remaining allegations in Paragraph 13 of the Amended Complaint are denied.

Paragraph 14

Defendants admit only so much of Paragraph 14 of the Amended Complaint that alleges that Gammella was a joint owner of Pepe Rosso for the relevant period. Otherwise, the remaining allegations in Paragraph 14 of the Amended Complaint are denied.

Paragraph 15

Defendants deny knowledge to be able to form a belief as to the truth of the allegations contained in Paragraph 15 of the Amended Complaint.

**IV.
COLLECTIVE ACTION ALLEGATIONS**

Paragraph 16

The allegations of Paragraph 16 of the Amended Complaint are statements of either law or fact for which an answer is not necessary, but to the extent that such allegations require an answer, they are denied.

Paragraph 17

Defendants deny the allegations contained in Paragraph 17 of the Amended Complaint.

Paragraph 18

Defendants deny the allegations contained in Paragraph 18 of the Amended Complaint.

Paragraph 19

Defendants deny the allegations contained in Paragraph 19 of the Amended Complaint.

**V.
BACKGROUND FACTS**

Paragraph 20

Defendants admit the allegations contained in Paragraph 20 of the Amended Complaint, except deny as to the designation of the business as “popular” and “busy”.

Paragraph 21

Defendants deny the allegations contained in Paragraph 21 of the Amended Complaint.

Paragraph 22

Defendants admit the allegations contained in Paragraph 22 of the Amended Complaint, only to the extent that Defendant, Gammella, manages Pepe Rosso and that Defendant, Tizzano, managed Rosso Uptown, which is now permanently closed for business; the remaining allegations are denied.

Paragraph 23

Defendants deny the allegations contained in Paragraph 23 of the Amended Complaint.

Paragraph 24

Defendants admit the allegations contained in Paragraph 24 of the Amended Complaint.

Paragraph 25

Defendants deny the allegations contained in Paragraph 25 of the Amended Complaint.

Paragraph 26

Defendants deny the allegations contained in Paragraph 26 of the Amended Complaint.

Paragraph 27

Defendants deny the allegations contained in Paragraph 27 of the Amended Complaint.